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10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION
14

15 AN DUY NGUYEN,

Petitioner,

17 v.

18 MIKE EVANS, Warden,

19 Respondent.

C 07-3979 SI (PR)

**ANSWER TO PETITION FOR
WRIT OF HABEAS CORPUS**

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21 Respondent hereby provides this answer to the petition for writ of habeas corpus and order
22 to show cause:

23 **I.**

24 Petitioner is lawfully in the custody of the California Department of Corrections. He is
25 serving a sentence of 16 years to life.

26 **II.**

27 Petitioner has exhausted his state remedies, having presented to the California Supreme
28 Court in a petition for a review and a petition for state habeas corpus the claims he raises in this

1 petition.

2 **III.**

3 Respondent denies that petitioner suffered any deprivation of constitutional rights and,
4 hence, that he is entitled to habeas corpus relief. Because the decisions of the state appellate courts
5 were neither contrary to nor an unreasonable application of clearly established federal law as
6 determined by the United States Supreme Court, petitioner is not entitled to a writ of habeas corpus.
7 28 U.S.C. § 2254(d)(1). In support of this denial, respondent incorporates the accompanying
8 memorandum of points and authorities.

9 **IV.**

10 Pursuant to Rule 5 of the rules governing section 2254 cases and to the Court's order to
11 show cause, respondent provides to the Court copies of the reporter's and clerk's transcripts of the
12 trial, all briefs filed in the state appellate courts, and all opinions and pertinent orders of the state
13 appellate courts. Because petitioner has attached to his petition copies of (1) the state appellate court
14 opinion denying relief on direct appeal and (2) his state habeas corpus petition to the state supreme
15 court, respondent has not provided copies of those documents.

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CONCLUSION

For the reasons stated, respondent requests that the petition be denied and the order to show cause discharged.

Dated: January 25, 2008

Respectfully submitted,

EDMUND G. BROWN JR.
Attorney General of the State of California

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: *Nguyen v. Evans*

No.: **C 07-3979 SI (PR)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On January 25, 2008, I served the attached **1. ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS; 2. MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF ANSWER; and 3. NOTICE OF LODGING OF EXHIBITS** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

An Duy Nguyen
V-68985
Salinas Valley State Prison
P.O. Box 1050
Soledad, CA 93960-1060
(w/out exhibits)

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on January 25, 2008, at San Francisco, California.

E. Rios

Declarant

E. Rios

Signature